



November 17, 2004

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Commissioner for Patents
Attn: Jean B. Corrielus, Examiner
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Application No.: 10/027,234

Dear Mr. Corrielus:

Per our phone conversation on November 16, 2004 and your instructions, I am returning to you the office action in connection with the above-referenced application number.

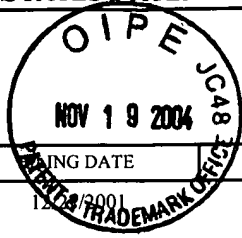
A handwritten signature in cursive script, appearing to read "Jane Gallant".

Jane Gallant
Secretary



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,234	12/24/2001	Norman Franklin Krasner	GES.025C	9405

7590 09/20/2004
VOLENTINE FRANCOS, P.L.L.C.
SUITE 150
12200 SUNRISE VALLEY DRIVE
RESTON, VA 20191

EXAMINER	
CORRIELUS, JEAN B	
ART UNIT	PAPER NUMBER

**VOLENTINE FRANCOS
P.L.L.C.**

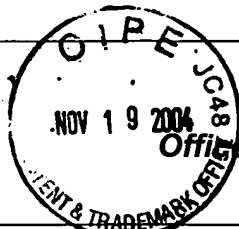
DATE MAILED: 09/20/2004

SEP 27 2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/027,234

Applicant(s)

KRASNER, NORMAN FRANKLIN

Examiner

Jean B Corrielus

Art Unit

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The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,4,11,16-18 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4,11,16-18 and 21 is/are allowed.
- 6) ☒ Claim(s) 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

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Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: **receiving said one or more first preamble information bits after detecting said one initial detection sequence; receiving said one or more second preamble information bits after detecting said one unique word**, recited in claim 3, lines 11-14, claim 4, lines 11-14 and claim 11, lines 11-14, do not have proper antecedent basis in the specification.

Claim Objections

2. Claims 3, 4 and 11 are objected to because of the following informalities. Claim 3, line 7, before bits, "p" should be deleted. The same comment applied to claims 4 and 11, line 7, respectively. Appropriate correction is required.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claim 3 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 of U.S. Patent No.6, 373,899. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim of the pending application is clearly encompassed by claim. Given that, it would have been obvious to one skill in the art to modify the claims as shown in the pending application in such a way to broaden the scope of the claim so as to minimize cost to implement the system.

Allowable Subject Matter

5. Claims 4, 11, 16-18 and 21 are allowed over the prior art of record.

Examiner's comment

6. Under the double patenting rejection in the last office action, the examiner inadvertently referred to a wrong reference number. This office action is being issued to correct the same. In addition, in reference to section "1" above, note the claims and line numbers where the limitations can be found.

Conclusion

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is (571) 272-3020. The examiner can normally be reached on Monday-Thursday from 7:00 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel, can be reached on (571) 272-3086.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.


Jean B. Corrielus

Primary Examiner

TC-2600 9/16/04